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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,612	04/25/2005	Masuo Yabuki	KAS.068	4671

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EXAMINER

EDWARDS, NEWTON O

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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10/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/532,612	YABUKI ET AL.	
	Examiner	Art Unit	
	N Edwards	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/25/05</u> | 6) <input type="checkbox"/> Other: _____ |

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1. The disclosure is objected to because of the following informalities: Page 1 of the substitute spec has the words hand written "Substitute Specification clean copy" should be removed. Page 1 of the spec should be resubmitted with out the hand written phrase.

Appropriate correction is required.

For the record, applicant is required to submit a copy in English of the Japanese Industrial standard which measures the Index of wetting, with a response to this office action. See claims 8-16 for index of wetting and page 3 lines 21-24 of the spec. Failure to comply will result in a nonresponsive action.

2. Claims 8,10,11, 12, 9,13,14,15, and16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 Line 4 " index of wetting of 38 dyn/cm" is vague and indefinite as to the meaning of the phrase. See claim 9-16 for the same problem.

Claim 9, line 3 "200dt" is vague and indefinite as to the meaning of the phrase dt.

For the record, in all the rejections that follow, the following assumption(s) have been made 1) index of wetting (Japanese phrase) means the same thing as surface tension (US phrase) or critical surface tension (CST) and 2) claim 9 line 3 200dt means 200dtex denier, fineness or thickness.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8,10,11, and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hansen (US 5,399,195).

For the record, the invention defined by a product by process claim is a **Product**, not a process. In re Bridgeford, 357 F. 2d 679. It is the patentability of the product claimed and **NOT** of the recited process steps which must be established. In re Brown, 459 F. 2d 531 ; in re Wertheim, 541 F. 2d 257. Thus the product of claim 8,10,11, and 12 is a polypropylene fiber having a surface tension (index of wetting) of 38 dynes/cm or more.

Hansen teaches polypropylene fibers (bundles or yarn) for reinforcing concrete comprising having a surface tension (index of wetting) of 65-80 dynes/cm cubed when the fibers are treated with corona treatment (which is an oxidation treatment). See col.1 lines 19-23, col.2 lines 1, 40,44, and 62 for example.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9,13,14,15,and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (US 5,399,105).

For the record, the invention defined by a product by process claim is a **Product**, not a process. In re Bridgeford, 357 F. 2d 679. It is the patentability of the product claimed and **NOT** of the recited process steps which must be established. In re Brown ,459 F. 2d 531 ; in re Wertheim, 541 F. 2d 257. Thus the product of claim 9,13,14,15,16 is a Polypropylene monofilament yarn having a 200dtex thickness (fineness) wherein the monofilament with a surface tension (index of wetting) of 38 dyn/cm or more.

Hansen is applied for the same reason given supra. Hansen teaches polypropylene fibers (bundles or yarn) for reinforcing concrete comprising having a surface tension (index of wetting) of 65-80 dynes/cm cubed when the fibers are treated with corona treatment (which is an oxidation treatment). See col.1 lines 19-23, col.2 lines 1, 40,44, and 62 for example. Hansen teaches all of the claimed invention except the claim thickness (denier of fineness) of the yarn.

On one hand it would have been obvious to one having ordinary skill in the art to vary and control the thickness of the yarn (bundle) in the concrete, since it has been held where the general condition of a claim are disclosed in the prior, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

On the other hand, it would have been obvious to one having ordinary skill in the art to vary and control the thickness of the yarn (bundle) in the concrete in order to control the desired strength or stiffness to the concrete.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 8,10,11,and 12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Selivansky (US 7,045,209).

For the record, the invention defined by a product by process claim is a **Product**, not a process. In re Bridgeford, 357 F. 2d 679. It is the patentability of the product claimed and **NOT** of the recited process steps which must be established. In re Brown ,459 F. 2d 531 ; in re Wertheim, 541 F. 2d 257. Thus the product of claim 8,10,11, and 12 is a polypropylene fiber having a surface tension (index of wetting) of 38 dynes/cm or more. Selivansky Teaches polypropylene fibers for cement or concrete comprising a surface tension of grater than 60 dynes/cm. See col.1 lines 9-16, col7 lines 24-28, and col.8 lines 36. Selivansky further teaches the fiber may be subject to a ultraviolet stabilization treatment (which is a oxidation treatment).

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 8,10,11,and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Carstens (US 5,744,257).

For the record, the invention defined by a product by process claim is a **Product**, not a process. In re Bridgeford, 357 F. 2d 679. It is the patentability of the product claimed and **NOT** of the recited process steps which must be established. In re Brown ,459 F. 2d 531 ; in re Wertheim, 541 F. 2d 257. Thus the product of claim 8,10,11, and 12 is a polypropylene fiber having a surface tension (index of wetting) of 38 dynes/cm or more. Carstens teaches modified polypropylene fibers for cement reinforcement having a surface tension (index of wetting) of at least 40mN/m when treated with fluorination treatment with a gas concentration of 0.1 to 99.99% by volume. See col.3 line 7-52 and col.4 line 9, for example.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 8,10,11,12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Dyer (PgPub 20020132106).

For the record, the invention defined by a product by process claim is a **Product**, not a process. In re Bridgeford, 357 F. 2d 679. It is the patentability of the product claimed and **NOT** of the recited process steps which must be established. In re Brown ,459 F.

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2d 531 ; in re Wertheim, 541 F. 2d 257. Thus the product of claim 8,10,11, and 12 is a polypropylene fiber having a surface tension (index of wetting) of 38 dynes/cm or more. Dyer teaches a polypropylene fiber having a critical surface tension of between about 15- and about 50, for example. See col.3 paragraphs 25-26, for example.

No Claims are allowed.

The cited patents disclose the state of the prior art.

Any inquiry concerning this communication should be directed to Primary Examiner Edwards at telephone number 571-272-1521.

A handwritten signature in black ink, appearing to read 'N Edwards', is positioned above the printed name.

N Edwards
Primary Examiner
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